

AMENDED IN SENATE JULY 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 839**

**Introduced by Assembly Member Salinas**

February 20, 2003

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An act to amend Sections 26202.6, 34090.6, and 34090.7 of, to add Sections 26206.7, 26206.8, and 34090.8 to, to add Article 9 (commencing with Section 53160) to Chapter 1 of Part 1 of Division 2 of Title 5 of, and to repeal Section 26202.3 of, the Government Code, and to add Section 99163 to the Public Utilities Code, relating to local government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 839, as amended, Salinas. Local government records: recordings: public transit systems.

Existing law contains various record retention provisions applicable to counties, applicable to cities, and applicable to districts and other entities of local government. Existing law generally allows cities and counties to authorize the destruction of recordings of routine video monitoring after one year and of recordings of telephone and radio communications after 100 days.

This bill would revise and recast these provisions. The bill would place the county provisions in the part of the Government Code relating to counties and the city provisions in the part of the Government Code relating to cities. The bill would delete erroneous references in the various provisions that refer to entities of local government not covered by the respective parts of the Government Code. The bill would enact separate provisions applicable to special districts.

~~This bill would also provide that the above provisions relating to retention of videotapes and recordings do not apply to videotapes or recordings made by security cameras operated as part of a public transit system, except for videotapes or recordings that are evidence in a claim filed or pending litigation or are the subject of an incident report and except as provided with respect to transit systems operated by a city or a city and county for each entity of government that, notwithstanding any other provision of law, by June 1, 2004, the videotapes or recordings made by a security camera system operated as part of a public transit system shall be retained for 4 days, unless the videotapes or recordings are evidence in any claim filed or any pending litigation or record an event that was or is the subject of an incident report, in which case they shall be retained until the matter is resolved. It would further require that any security camera system purchased or installed on or after January 1, 2009, by a specified entity of government that operates a public transit system shall be capable of storing videotapes or recordings for at least 30 days.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of this act to revise and conform  
2 various statutes pertaining to the authority of cities, counties, and  
3 special districts to destroy recordings of routine video monitoring  
4 and of telephone and radio communications after certain periods  
5 of time, by removing references in certain statutes to units of  
6 government not subject to particular chapters of the Government  
7 Code in which those statutes are located, and by making  
8 appropriate additions to other chapters of the Government Code,  
9 in order to thereby avoid ambiguity. It is further the intent of this  
10 act to provide that videotapes or recordings made by security  
11 cameras operated as a part of a public transit system ~~are not~~  
12 ~~required to be preserved as the technology applied in this regard~~  
13 ~~is not readily amenable to storage, and the information gathered by~~  
14 ~~these cameras is currently only retrieved on a case-by-case basis~~  
15 ~~as a need arises, and in absence of retrieval the tape or recording~~  
16 ~~is automatically recycled after a certain interval of time.~~ *shall be*  
17 *retained for four days unless specified conditions apply because*  
18 *current technology is not readily amenable to storage, although a*



1 *public transit system that purchases or installs a new security*  
2 *camera system on or after January 1, 2009, shall be required to*  
3 *obtain a system with new technology that will allow storage for at*  
4 *least 30 days.*

5 SEC. 2. Section 26202.3 of the Government Code is repealed.

6 SEC. 3. Section 26202.6 of the Government Code is amended  
7 to read:

8 26202.6. (a) Notwithstanding the provisions of Sections  
9 26202, 26205, and 26205.1, the head of a department of a county,  
10 after one year, may destroy recordings of routine video  
11 monitoring, and after 100 days may destroy recordings of  
12 telephone and radio communications maintained by the  
13 department. This destruction shall be approved by the legislative  
14 body and the written consent of the agency attorney shall be  
15 obtained. In the event that the recordings are evidence in any claim  
16 filed or any pending litigation, they shall be preserved until  
17 pending litigation is resolved.

18 (b) For purposes of this section, “recordings of telephone and  
19 radio communications” means the routine daily taping and  
20 recording of telephone communications to and from a county and  
21 all radio communications relating to the operations of the  
22 departments.

23 (c) For purposes of this section, “routine video monitoring”  
24 means videotaping by a video or electronic imaging system  
25 designed to record the regular and ongoing operations of the  
26 departments described in subdivision (a), including mobile in-car  
27 video systems, jail observation and monitoring systems, and  
28 building security taping systems.

29 (d) For purposes of this section, “department” includes a  
30 public safety communications center operated by the county and  
31 the governing board of any special district whose membership is  
32 the same as the membership of the board of supervisors.

33 SEC. 4. Section 26206.7 is added to the Government Code, to  
34 read:

35 26206.7. Notwithstanding the provisions of Section 26202,  
36 the legislative body of a county may prescribe a procedure  
37 whereby duplicates of county records less than two years old may  
38 be destroyed if they are no longer required.

39 For purposes of this section, video recording media, such as  
40 videotapes and films, and including recordings of “routine video

monitoring” pursuant to Section 26202.6, shall be considered duplicate records if the county keeps another record, such as written minutes or an audiotape recording, of the event that is recorded in the video medium. However, a video recording medium shall not be destroyed or erased pursuant to this section for a period of at least 90 days after occurrence of the event recorded thereon.

SEC. 5. Section 26206.8 is added to the Government Code, to read:

26206.8. (a) Notwithstanding any other provision of law, ~~the preservation of by June 1, 2004,~~ videotapes or recordings made by security cameras operated as part of a public transit system by a county shall ~~not be required~~ *be retained for four days*, unless one of the following conditions applies:

~~(a)~~

(1) The videotapes or recordings are evidence in any claim filed or any pending litigation, in which case the videotapes or recordings shall be preserved until the claim or the pending litigation is resolved.

~~(b)~~

(2) The videotapes or recordings recorded an event that was or is the subject of an incident report, *in which case the videotapes or recordings shall be preserved until the incident is resolved.*

(b) *Any security camera system purchased or installed on or after January 1, 2009, by a county operating a public transit system shall be capable of storing videotapes or recordings for at least 30 days.*

(c) *Any county operating a public transit system that installs a security camera system that is capable of storing videotapes or recordings for at least 30 days shall store any videotapes or recordings made by that public transit system for 30 days.*

SEC. 6. Section 34090.6 of the Government Code is amended to read:

34090.6. (a) Notwithstanding the provisions of Section 34090, the head of a department of a city or city and county, after one year, may destroy recordings of routine video monitoring, and after 100 days may destroy recordings of telephone and radio communications maintained by the department. This destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that the

1 recordings are evidence in any claim filed or any pending  
2 litigation, they shall be preserved until pending litigation is  
3 resolved.

4 (b) For purposes of this section, “recordings of telephone and  
5 radio communications” means the routine daily taping and  
6 recording of telephone communications to and from a city, city and  
7 county, or department, and all radio communications relating to  
8 the operations of the departments.

9 (c) For purposes of this section, “routine video monitoring”  
10 means videotaping by a video or electronic imaging system  
11 designed to record the regular and ongoing operations of the  
12 departments described in subdivision (a), including mobile in-car  
13 video systems, jail observation and monitoring systems, and  
14 building security taping systems.

15 (d) For purposes of this section, “department” includes a  
16 public safety communications center operated by the city or city  
17 and county.

18 SEC. 7. Section 34090.7 of the Government Code is amended  
19 to read:

20 34090.7. Notwithstanding the provisions of Section 34090,  
21 the legislative body of a city may prescribe a procedure whereby  
22 duplicates of city records less than two years old may be destroyed  
23 if they are no longer required.

24 For purposes of this section, video recording media, such as  
25 videotapes and films, and including recordings of “routine video  
26 monitoring” pursuant to Section 34090.6, shall be considered  
27 duplicate records if the city keeps another record, such as written  
28 minutes or an audiotape recording, of the event that is recorded in  
29 the video medium. However, a video recording medium shall not  
30 be destroyed or erased pursuant to this section for a period of at  
31 least 90 days after occurrence of the event recorded thereon.

32 SEC. 8. Section 34090.8 is added to the Government Code, to  
33 read:

34 34090.8. (a) Notwithstanding any other provision of law, ~~the~~  
35 ~~preservation of by June 1, 2004,~~ videotapes or recordings made by  
36 security cameras operated as part of a public transit system by a  
37 city or city and county shall ~~not be required~~ *be retained for four*  
38 *days*, unless one of the following conditions applies:

39 ~~(a)–~~

1 (1) The videotapes or recordings are evidence in any claim  
2 filed or any pending litigation, in which case the videotapes or  
3 recordings shall be preserved until the claim or the pending  
4 litigation is resolved.

5 ~~(b)~~

6 (2) The videotapes or recordings recorded an event that was or  
7 is the subject of an incident report, *in which case the videotapes*  
8 *or recordings shall be preserved until the incident is resolved.*

9 (b) *Any security camera system purchased or installed on or*  
10 *after January 1, 2009, by a city or city and county operating a*  
11 *public transit system shall be capable of storing videotapes or*  
12 *recordings for at least 30 days.*

13 (c) *Any city or city and county operating a public transit system*  
14 *that installs a security camera system that is capable of storing*  
15 *videotapes or recordings for at least 30 days shall store any*  
16 *videotapes or recordings made by that public transit system for 30*  
17 *days.*

18 SEC. 9. Article 9 (commencing with Section 53160) is added  
19 to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government  
20 Code, to read:

21  
22 Article 9. Preservation of Videotapes and Recordings  
23

24 53160. (a) The head of a special district, after one year, may  
25 destroy recordings of routine video monitoring, and after 100 days  
26 may destroy recordings of telephone and radio communications  
27 maintained by the special district. This destruction shall be  
28 approved by the legislative body and the written consent of the  
29 agency attorney shall be obtained. In the event that the recordings  
30 are evidence in any claim filed or any pending litigation, they shall  
31 be preserved until pending litigation is resolved.

32 (b) For purposes of this article, “recordings of telephone and  
33 radio communications” means the routine daily taping and  
34 recording of telephone communications to and from a special  
35 district, and all radio communications relating to the operations of  
36 the special district.

37 (c) For purposes of this article, “routine video monitoring”  
38 means videotaping by a video or electronic imaging system  
39 designed to record the regular and ongoing operations of the  
40 special district, including mobile in-car video systems, jail

1 observation and monitoring systems, and building security taping  
2 systems.

3 (d) For purposes of this article, “special district” shall have the  
4 same meaning as “public agency,” as that term is defined in  
5 Section 53050.

6 53161. Notwithstanding Section 53160, the legislative body  
7 of a special district may prescribe a procedure whereby duplicates  
8 of special district records less than two years old may be destroyed  
9 if they are no longer required.

10 For purposes of this section, video recording media, such as  
11 videotapes and films, and including recordings of ~~routine video~~  
12 ~~monitoring~~ “*routine video monitoring*” pursuant to Section  
13 53160, shall be considered duplicate records if the special district  
14 keeps another record, such as written minutes or an audiotape  
15 recording, of the event that is recorded in the video medium.  
16 However, a video recording medium shall not be destroyed or  
17 erased pursuant to this section for at least 90 days after occurrence  
18 of the event recorded thereon.

19 53162. (a) Notwithstanding any other provision of law, ~~the~~  
20 ~~preservation of by June 1, 2004,~~ videotapes or recordings made by  
21 security cameras operated as part of a public transit system by a  
22 special district shall ~~not be required~~ *be retained for four days*,  
23 unless one of the following conditions applies:

24 ~~(a)~~

25 (1) The videotapes or recordings are evidence in any claim  
26 filed or any pending litigation, in which case the videotapes or  
27 recordings shall be preserved until the claim or the pending  
28 litigation is resolved.

29 ~~(b)~~

30 (2) The videotapes or recordings recorded an event that was or  
31 is the subject of an incident report, *in which case the videotapes*  
32 *or recordings shall be preserved until the incident is resolved.*

33 (b) *Any security camera system purchased or installed on or*  
34 *after January 1, 2009, by a special district operating a public*  
35 *transit system shall be capable of storing videotapes or recordings*  
36 *for at least 30 days.*

37 (c) *Any special district operating a public transit system that*  
38 *installs a security camera system that is capable of storing*  
39 *videotapes or recordings for at least 30 days shall store any*



1 *videotapes or recordings made by that public transit system for 30*  
2 *days.*

3 SEC. 10. Section 99163 is added to the Public Utilities Code,  
4 to read:

5 99163. (a) Notwithstanding any other provision of law, ~~the~~  
6 ~~preservation of by June 1, 2004,~~ videotapes or recordings made by  
7 security cameras operated as part of a public transit system by an  
8 operator, as defined in Section 99210, shall ~~not be required.~~ *be*  
9 *retained for four days unless one of the following conditions*  
10 *applies:*

11 (1) *The videotapes or recordings are evidence in any claim filed*  
12 *or any pending litigation, in which case the videotapes or*  
13 *recordings shall be preserved until the claim or the pending*  
14 *litigation is resolved.*

15 (2) *The videotapes or recordings recorded an event that was or*  
16 *is the subject of an incident report, in which case the videotapes*  
17 *or recordings shall be preserved until the incident is resolved.*

18 (b) *Any security camera system purchased or installed on or*  
19 *after January 1, 2009, by a public transit system operated by an*  
20 *operator shall be capable of storing videotapes or recordings for*  
21 *at least 30 days.*

22 (c) *Any public transit system operated by an operator that*  
23 *installs a security camera system that is capable of storing*  
24 *videotapes or recordings for at least 30 days shall store any*  
25 *videotapes or recordings made by that public transit system for 30*  
26 *days.*

